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Attorney for Plaintiffs

# IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

EAGLE VIEW TECHNOLOGIES INC., PICTOMETRY INTERNATIONAL CORP.,

Plaintiffs,

VS.

NEARMAP US, INC.,

Defendant.

PLAINTIFFS' SHORT FORM DISCOVERY MOTION REGARDING THE SCOPE OF THE ACCUSED PRODUCTS

Case No. 2:21-cv-00283-TS-DAO

The Honorable Ted Stewart

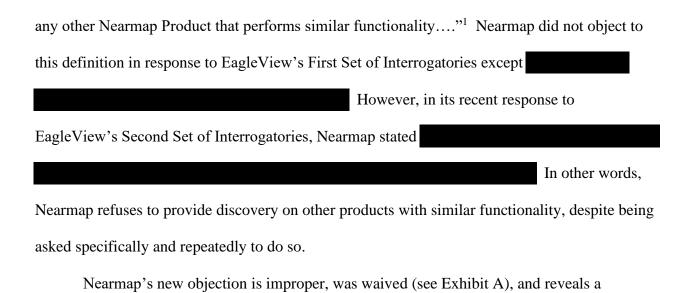
Magistrate Judge Daphne A. Oberg

**REDACTED VERSION** 

Pursuant to DUCivR37-1(b), Plaintiffs move to compel Nearmap to respond to certain discovery as set out below.

#### All Nearmap Roof Measurement Products with Similar Functionality

EagleView's Interrogatories seek discovery concerning all "Accused Products"—defined as products specifically identified in EagleView's Complaint, Infringement Contentions, "and



EagleView has no way to know about them by brand-name other than through discovery. This does not mean that Nearmap gets to hide the ball and continue to infringe. Courts routinely recognize that discovery should be allowed on specifically accused products, and those with "similar functionality." See, e.g., Uniloc USA, Inc. v. Avaya Inc., No. 6:15-cv-1168-JRG, 2016 WL 7042236 (E.D. Tex. May 13, 2016) ("It is often the case that litigants have good reason to believe that additional, unspecified products infringe their patents, but formal discovery may be necessary to ascertain the precise scope and application of the alleged infringement."); see also High 5 Games, LLC v. Marks, 2019 WL 1499769 (D.N.J. April 5, 2019) (granting motion to compel technical information relating to undisclosed games believed to include infringing features). Accordingly, the Court should order Defendant to amend its responses to Plaintiffs' written discovery and produce all relevant, responsive documents.

<sup>&</sup>lt;sup>1</sup> EagleView's Second Set of Interrogatories uses a minor variation of this definition, immaterial to this motion.

## All Uses and Supply Chains of the Accused Roof Geometry Product

Plaintiffs certify compliance with DUCivR37-1 through correspondence beginning on September 19, 2022, and a meet-and-confer on September 27, 2022.

Dated: October 6, 2022 /s/ Juliette P. White

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## **CERTIFICATE OF SERVICE**

I hereby certify that, on the 6th day of October, 2022, I caused to be electronically filed and served the foregoing PLAINTIFFS' SHORT FORM DISCOVERY MOTION with the Clerk of the Court using the Court's electronic filing system, which sent notification of such filing to all attorneys listed on the docket.

/s/ Juliette P. White

Juliette P. White

Attorney for Plaintiffs